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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/066,818	02/04/2002	James R. Hornsby	14002.01	4800

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LAW OFFICE OF RICHARD B. KLAR  
145 WILLIS AVENUE  
MINEOLA, NY 11501

EXAMINER
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CEGIELNIK, URSZULA M

ART UNIT	PAPER NUMBER
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3711

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06/18/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

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# Office Action Summary

Application No.

10/066,818

Applicant(s)

HORNSBY ET AL.

Examiner

Urszula M. Cegielnik

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 3-17, 21, 26-30 and 32-45 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 3-17, 21, 26-30, and 32-45 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Claim Objections***

Claims 43-45 are objected to because of the following informalities: Claims 43-45 recite on line 4 "switch plates *sides*". The word "sides" appears to be a typographical error. Appropriate correction is required.

Claim 43 is objected to because of the following informalities: Claim 43 depends from claim 1 that was cancelled. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3, 12, and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Esposito (US Patent No. 4,239,129) in view of Schaeffeler et al. (US Patent No. 6,469,268).

Esposito disclose a fluid discharge mechanism (3); a plurality of light sources (9,11), located along a fluid discharge mechanism (3); and a sequential trigger (14) coupled to the fluid discharge mechanism (3) and to the light sources (9,11).

Esposito does not disclose confronting first and second switch plates slidably coupled to each other, the first and second switch plates having a longitudinal axis.

Schaeffeler et al. teach confronting first (15,18) and second (15',18') switch plates slidably coupled to each other, the first and second switch plates having a longitudinal axis (see Figure 5, for example).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide to abovementioned claimed features as taught by Schaeffeler et al., since such a modification would permit precise switch control.

Claims 3-5, 7, 8, 21, and 27-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chin-Fu (US Patent No. 4,750,641) in view of Schaeffeler et al. and Lebensfeld et al (US Patent No. 6,302,796),

Chi-Fu discloses a fluid discharge mechanism (33); a light source (40); and a sequential trigger mechanism (18) coupled to the fluid discharge mechanism (33) and to the light source (40), the sequential trigger mechanism (18) includes first (22) and second (24) switch plates ("*pushed against*" [col. 4, lines 19-21] may be interpreted as being slidable) slidably coupled to each other; the conductive portions of reference parts 22 and 24 enable the motor to be actuated (which is operated by battery).

Chin-Fu does not disclose the switch having confronting first and second switch plates slidably coupled to each other, and having a longitudinal axis; a plurality of light sources; an IR transmitter and receiver.

Schaeffeler et al. teach confronting first (15,18) and second (15',18') switch plates slidably coupled to each other, the first and second switch plates having a longitudinal axis (see Figure 5, for example).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide to abovementioned claimed features as taught by Schaeffeler et al., since such a modification would permit precise switch control.

With respect to the plurality of light sources and an IR transmitter and receiver, Lebensfeld et al. disclose a plurality of light sources (74,75); Lebensfeld et al. disclose an IR transmitter (70) and receiver (14) which is (operably) coupled to a trigger mechanism (80).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide an IR transmitter and receiver as taught by Lebensfeld et al., since such a modification would provide enhanced interactive play value.

Furthermore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a plurality of light sources as taught by Lebensfeld et al., since Chin-Fu states at col. 4, lines 57-58, that such a modification would increase the entertainment value of the toy.

Claims 6, 13-17, 37, 40, <sup>41, 42</sup>~~and 44~~ are rejected under 35 U.S.C. 103(a) as being unpatentable over Chin-Fu in view of Schaeffeler et al. and Lebensfeld et al. as applied to claim 3 above, and further in view of Greenberg et al. (US Patent 6,280,277).

Chi-Fu discloses a fluid discharge mechanism (33); a light source (40); and a sequential trigger mechanism (18) coupled to the fluid discharge mechanism (33) and to the light source (40), the sequential trigger mechanism (18) includes first (22) and second (24) switch plates slidably coupled to each other; means for discharging

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coherent stream of fluid (15) is independent from means for discharging conical stream of fluid (34).

The modified invention of Chin-Fu lacks a trigger lock mechanism.

Greenberg et al. teach a trigger lock mechanism (23).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a trigger lock mechanism as taught by Greenberg et al., since such a modification would provide protection against unintentional activation of the trigger mechanism.

Claims 43-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Esposito in view of Schaeffeler et al. as applied to claims 3, 12, and 26 above, and further in view of Shiomi (US Patent No. 5,818,148).

The modified invention of Esposito lacks the switch plates having conductive strips.

Shiomi teaches a switch have switch plates (1,2) that have conductive strips (7,9).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the switch plates with conductive strips as taught by Shiomi, since such a modification would provide an alternate switching arrangement for controlling the current.

Claims 13, 38, and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Esposito in view of Schaeffeler et al as applied to claim 12 above,

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and further in view of Lebensfeld et al. (US Patent No. 6,302,796) and Greenberg et al. (US Patent 6,280,277).

The modified invention of Esposito lacks an IR transmitter and receiver; and a trigger lock mechanism.

Lebensfeld et al. teach an IR transmitter (70) and receiver (14) which is (operably) coupled to a trigger mechanism (80).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide an IR transmitter and receiver as taught by Lebensfeld et al., since such a modification would provide enhanced interactive play value.

Greenberg et al. teach a trigger lock mechanism (23).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a trigger lock mechanism as taught by Greenberg et al., since such a modification would provide protection against unintentional activation of the trigger mechanism.

Claims 9-11, 35, and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chin-Fu in view of Schaeffeler et al. as applied to claim 3 above, and further in view of Minoura et al. (US Patent No. 6,050,498).

Chin-Fu (US Patent No. 4,750,641) as modified by Lebensfeld et al (US Patent No. 6,302,796), lack an additional tank with trigger and purge valves.

Minoura et al. (US Patent No. 6,050,498) teach a fluid-discharge device having a plurality of tanks (2-6) with associated trigger valves (20-24), and a purge valve (67).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide additional tanks with associated trigger valves and purge valve as taught by Minoura et al., since such a modification would allow the toy to be played with to an extended period of time.

### ***Response to Arguments***

Applicant's arguments filed 26 January 2007 have been fully considered but they are not persuasive.

Applicant argues that Schaeffeler et al. does not disclose a first and second switch plates that are slidably coupled to each other and that the first and second switch plates having a longitudinal axis. The examiner submits that Schaeffeler et al. disclose the first and second switch plates are slidably

~~by~~ coupled via a spring and having a longitudinal axis. Applicant has not claimed that the first and second switch plates are directly slidably coupled and touching each other.

With respect to Applicant's argument that elements 15 and 18 (15' and 18') are not switch plates, the Examiner is broadly interpreting element 15 (along with 18) as a plate with an intended use of a switch.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Urszula M. Cegielnik whose telephone number is 571-272-4420. The examiner can normally be reached on Monday through Friday, from 5:45AM-2:15PM.



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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eugene L. Kim can be reached on 571-272-4463. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

umc



EUGENE KIM  
SUPERVISORY PATENT EXAMINER